IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 24.4.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K.SAMPATHKUMAR

Habeas Corpus Petition No.172 of 2006

Mrs.S.Sudha Petitioner

vs.

1. The Commissioner of Police,
Greater Chennai,
Egmore, Chennai 600 008.

2. The Secretary to the Government of Tamil Nadu,
Prohibition and Excise Department,
Fort St. George, Secretariat,
Chennai-600 009. Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the first respondent dated 12.12.2005 in No.544/BDFGISV/2005 against the detenu viz., S.Sudha @ Sudhakar son of Selvaraj now confined in Central Prison, Chennai set aside the same, direct the respondents to produce the above said detenu before this Court and set him at liberty.

For Petitioner : Mr.D.Kirubaraj for
Mr.P.Prince Premkumar

For Respondents : Mr.Abudu Kumar Rajarathinam,
Govt. Advocate (Crl. Side)

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner herein, who is the wife of the detenu by name S.Sudha @ Sudhakar, challenges the impugned order of detention, dated 12.12.2005, detaining her husband as 'Goonda' as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral

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Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

2. Heard learned counsel for the petitioner as well as learned Government Advocate for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there was delay in disposal of the representation of the detenu.

4. The particulars furnished by the learned Government Advocate show that the representation of the detenu was received by the Government on 15.3.2006. Subsequently, remarks were called for on 16.3.2006 and the same were received on 20.3.2006. The File was dealt with by the Under Secretary and Deputy Secretary on 22.3.2006. Finally, the Minister for Prohibition and Excise passed orders on 23.3.2006. However, the rejection letter was prepared only on 10.4.2006. The said letter was sent to the Central Prison for service on 10.4.2006 and served to the detenu on 12.4.2006.

5. As rightly pointed out by the learned counsel for the petitioner, though the competent authority, viz., Minister for Prohibition and Excise, passed orders on 23.3.2006, there is no reason for taking time till 10.4.2006 for preparation of the rejection letter. In the absence of proper explanation, even if we exclude the intervening holidays, we are of the view that the delay is on the higher side, which caused prejudice to the detenu in considering his representation effectively. On this ground, the impugned order of detention is quashed.

6. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is quashed. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

ssk.

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To

1. The Commissioner of Police,
   Greater Chennai, Egmore,
   Chennai. 600 008.

2. Secretary to Government,
   Prohibition and Excise Department,
   Fort St. George, Chennai 600 009.

3. The Superintendent, Central Prison,
   Chennai. (In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order)
   Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

AK (CO)
km/4.5.

HCP. No.172/2006

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